IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1272 OF 2005

Smita Raghunath Ghodankar ...Petitioner
V/s.
Union of India & Ors. ...Respondents

Mr.Mihir Desai alongwith Mr.V.M. Parkar for the Petitioner.
Mr.S.S. Pakale for Respondent No.1.
Mr.L.R. Mohite for Respondent Nos.2 and 3.

CORAM : SWATANTER KUMAR, C.J. AND V.M. KANADE, J.

DATED : JUNE 9, 2008

P.C. :-

1. The petitioner who was working as Director of the respondent Sanstha has challenged the correctness, legality and validity of the order dated 14th February, 2005 passed by the respondent Sanstha dismissing her from the post of Director with immediate effect and also stating that they may even take appropriate criminal action for committing fraud and cheating the institution.

2. Various grounds of challenge to the impugned order have been raised before us and in the writ petition, interalia that there is violation of

principles of natural justice as the order was passed without following due process of law and even in violation to the regulations as are applicable to the employees of the institution including the Director.

3. Respondent Sanstha tried to justify the stand of the respondent Sanstha on the basis that an inquiry was conducted but he could not even show if the inquiry is said to be in accordance with the basic principles, still the order was passed after approval of the Central Government as contemplated under Clause 6.12 of the Scheme of the Sanstha and as per the Service and Recruitment Regulations for the Employees of Sanstha.

4. It is not necessary for us to travel into various controversies raised and discuss anything on merit or otherwise on the contentions raised as during the course of arguments, the learned Counsel appearing for the parties commonly agreed that the writ petition itself would be disposed of by a consented order for which they had taken due instructions from their respective clients who are appearing in this Court.

5. Based on that, Order dated 14th February, 2005 shall not be given effect and shall be kept in abeyance. Show Cause Notice was served to which reply has been submitted by the employee. The proceedings shall commence from that stage and the competent authority shall consider the Show Cause reply and pass appropriate orders, in accordance with Rules and Regulations and the scheme of the Sanstha.

6. If the authorities decide to hold the domestic inquiry, they shall hold the same, in accordance with their Rules and Regulations and basic principles of natural justice.

7. in the event, the petitioner is found guilty and the article of charges, if framed against the petitioner, the authorities will be at liberty to pass such orders as they may think fit and proper in the circumstances of the case.

9. It would be open to the petitioner to challenge

the said order if adverse to the interest of the petitioner, in accordance with law.

10. Arrears obtained and allowances shall also be dealt with by the competent authority in accordance with law and at the time of passing order which now may be passed by the authorities concerned.

11. In the event, the petitioner is found not guilty or authorities decide not to hold any inquiry against the petitioner, the petitioner will be given benefits, in accordance with law.

12. Writ Petition is disposed of in the above terms which are otherwise just, fair and equitable. The consented terms shall form part of the order of this Court.

CHIEF JUSTICE

V.M. KANADE, J.